



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

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August 18, 1999

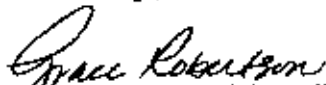
Iowa Finance Authority  
Attn: Kent Powell  
100 East Grand Avenue, Suite 250  
Des Moines, IA 50309

Dear Mr. Powell,

As the result of an inquiry by a state agency regarding their authority to require owners of low income housing to use standardized forms, our office sought advice from Counsel and responded directly to the state agency. We also distributed the attached generalized memorandum to our field examiners. We would also like to share this memorandum with you as clarification of your authority to establish additional requirements for documenting taxpayer-owner compliance with IRC 42.

If you have any questions, please feel free to contact me at 202-343-0070.

Sincerely,

  
Grace Robertson

Orig to: Janice M.  
Copy to: Sharon M.  
Donna D.  
JMD 8/25/99



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MEMORANDUM FOR REGIONAL CHIEF COMPLIANCE OFFICERS; ASSISTANT  
COMMISSIONER (INTERNATIONAL) OP:IN

FROM: Andre' L. Re *Deputy RD for*  
National Director, Compliance Specialization  
OP:EX:CS

SUBJECT: Market Segment Specialization Program - Low  
Income Housing Credit - State Housing Agency  
Authority to Require Uniform Documentation

This memorandum is issued as clarification of State Housing Agencies' authority to require standardized documentation of compliance with Internal Revenue Code 42 requirements as part of their monitoring procedures. The question was originally raised by a state housing credit agency after concluding that an owner's questionnaire, used to determine the eligibility of student tenants, was not useful for monitoring the owner's compliance with IRC 42. The housing agency asks the owner to provide supplemental documentation and/or use standardized forms available in their state's Compliance Manual.

Section 42(m) outlines the responsibilities of housing credit agencies for administering the program, including procedures for monitoring taxpayer compliance after receiving the credit allocation. Regulation Section 1.42-5 outlines the procedures a state agency must follow in monitoring for noncompliance with the provisions of Section 42. Further, section 1.42-5(a)(2)(ii) specifically provides that the monitoring procedure may contain additional provisions or requirements.

Chief Counsel has determined that because the compliance monitoring regulations under section 1.42 establish minimum standards, housing credit agencies have the right to control the documentation required within their jurisdiction to fulfill their compliance monitoring responsibilities as outlined in Regulation section 1.42-5(c)(2)(ii)(C), including the use of standardized forms or documents.

If a housing credit agency determines that documentation provided by a property owner is inadequate, it is reasonable for the agency to request new or additional documentation from the property owner. Further, to the extent that inadequate documentation prevents a housing credit agency from determining

whether a project is in compliance with Section 42, the agency can properly hold that the project is out of compliance.. Such noncompliance should be reported to the IRS on Form 8823.

Please ensure that this memo is shared with the district Low Income Housing Credit Coordinators. If you have any questions, please call Grace Robertson at (202) 343-0070. .